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11/17/14



**VIA CERTIFIED MAIL - -
RETURN RECEIPT REQUESTED**

November 11, 2014

Gregory J. Goff, President and CEO
Tesoro Corporation
Tesoro Refining and Marketing Company
19100 Ridgewood Parkway
San Antonio, TX 78259

Terminal Manager
Tesoro Long Beach Terminal
820 Carrack Avenue
Long Beach, CA 90813

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Mr. Goff and Terminal Manager:

NOTICE

The Clean Water Act ("CWA") § 505(b) requires that 60 days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occurred.

On behalf of California River Watch ("River Watch") statutory notice is hereby provided to Tesoro Corporation and Tesoro Refinery and Marketing Company, collectively referred to hereafter in this Notice as "Tesoro," that following the expiration of 60 days from the date of this Notice, River Watch will have cause to bring suit in the United States District Court against Tesoro as the owner and operator of the Tesoro Long Beach Terminal, located at 820 Carrack Avenue, Long Beach, California, hereafter referred to as "the Terminal," for continuing violations of an effluent standard or limitation, permit condition or requirement, a Federal or State Order issued under the CWA, in particular, but not limited to CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water

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Quality Control Board, Los Angeles Region's ("RWQCB") Water Quality Control Plan also known as the "Basin Plan," as exemplified by Tesoro's illegal discharges of pollutants from a point source to waters of the United States in violation of its National Pollutant Discharge Elimination System ("NPDES") Permit.

This Notice also addresses Tesoro's ongoing violations of the substantive and procedural requirements of CWA § 402(p) and NPDES General Permit No. CAS000001, State Water Resources Control Board Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("General Permit"). The CWA prohibits storm water discharges without a permit pursuant to 33 U.S.C. § 1342; 40 C.F.R. § 122.26. The activities leading to these CWA violations are more fully described below.

The CWA requires that any notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. *The specific standard, limitation, or order alleged to have been violated*

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a polluter who has been issued a NPDES permit pursuant to the CWA, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a) prohibition.

Tesoro filed a Notice of Intent agreeing to comply with the terms and conditions of the General Permit. The State Water Resources Control Board approved the Notice of Intent and Tesoro was assigned Waste Discharger's Identification ("WDID") Number 228S003380. Industrial activities at the Terminal are currently regulated under Order No. R2-2010-0084, NPDES Permit No. CA0004961.

This Notice addresses Tesoro's failure to comply with the terms and conditions of NPDES Permit No. CA0004961, its discharges of non-storm water pollutants from the Terminal in violation of effluent limitations, its illegal discharges of contaminated storm water from the Terminal, and its apparent violations of the procedural requirements of the General Permit.

River Watch alleges Tesoro has violated "effluent standards or limitations" by allowing petroleum hydrocarbons, petroleum constituents and other toxic chemicals at concentrations above State of California Maximum Contaminant Levels to be released and

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discharged from the Terminal into waters of the United States, specifically into Long Beach Harbor as further investigation may disclose, in violation of the terms of its NPDES Permit and the General Permit.

2. *The activity alleged to constitute a violation*

River Watch has set forth narratives below describing discharges to waters of the United States as the activities leading to statutory violations, and describing with particularity specific incidents which may or may have not been reported in public reports and other public documents in Tesoro's possession or otherwise available to Tesoro. River Watch incorporates by reference the records cited below from which descriptions of specific incidents were obtained.

3. *The discharger responsible for the alleged violation*

The discharger responsible for the violations of the CWA alleged in this Notice are Tesoro Corporation and Tesoro Refinery and Marketing Company, referred to herein as "Tesoro," in its capacity as the owner and/or operator of the Terminal. This Notice includes Tesoro as well as those of its managers and other employees responsible for compliance with the CWA, Tesoro's NPDES Permit, and any other applicable state and federal regulations and permits.

4. *The location of the alleged violation*

The locations of the various violations are the Terminal and points sources therein. Violation locations are also contained in records either created or maintained by or for Tesoro which relate to Tesoro's activities at the Terminal including records filed with regulatory agencies including the RWQCB.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activities occurred*

River Watch contends the disposition, discharge and release of pollutants from the Terminal has been ongoing as far back as the 1980's. River Watch has examined State Water Resource Control Board and RWQCB records for the period from September 2011 to the present. The CWA is a strict liability statute with a 5-year statute of limitations. Therefore, the range of dates covered by this Notice is November 10, 2009 to November 10, 2014. River Watch will from time to time supplement this Notice to include any violations of the CWA which occur at the Terminal after the date of this Notice. Some of the violations are continuous in nature, therefore each day that violations persist constitutes a separate CWA violation.

6. *The full name, address, and telephone number of the person or entity giving notice.*

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch". River Watch is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to the protection, enhancement, and restoration of the waters of California including, but not limited to, its rivers, creeks, streams, tributaries, wetlands, vernal pools, and groundwater. River Watch has a very active branch in Southern California. Its headquarters and main office are located in Northern California with a mailing address of 290 S. Main Street, #817, Sebastopol, California. River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys.

River Watch has retained legal counsel with respect to the issues raised in this Notice. All communications should be addressed to:

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The violations of Tesoro as set forth in this Notice affect the economic stability, physical health and aesthetic enjoyment of members of River Watch who reside and recreate in the affected watershed area. The members of River Watch use the watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, shellfish harvesting, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource are conditions specifically impaired by these violations of CWA.

THE SITE

The Tesoro Long Beach Terminal occupies almost 5 acres along a portion of the Long Beach port area. The site is characterized by above-ground product storage tanks, a terminal building and a man-made jetty which extends southwest into the Long Beach Harbor. The beneficial uses of the underlying water table are very limited due to seawater intrusion.

In September of 2011, an estimated 45 gallons of crude oil escaped from a hole in an underground conveyance line located in the jetty area of the Terminal. The discharge was observed to have spread into the waters of Long Beach Harbor and riprap along the shore area of the inner Harbor. The RWQCB requested a feasibility study by Tesoro to deal with the area of contamination caused by this spill.

Tesoro initially installed an oil boom and had the riprap of the jetty steam cleaned. Since that time Tesoro's remediation consultant, Trihydro, has initiated investigations at the Terminal site including a hydrological evaluation and the installation of monitoring wells.

Monitoring of the spill site indicated an observation of oil from between 5 ft. bgs to 19 ft. bgs. Soil samples taken in January, 2012 revealed elevated concentrations of contamination including TPH-g of 490,000 ug/kg, TPG-d of 4,300,000 ug/kg, and TPG-o of 2,400,000 ug/kg. Groundwater samples in that time frame were significantly less: TPH-g of 1,100 ug/l, TPH-d of 7,700 ug/l and TPH-o of 2,400 ug/l. LNAPL has been measured in at least one well (MW-5). The viscosity of the LNAPL and the tidal fluctuations in the area (affecting groundwater levels by as much as 6 ft.) limit the ability to determine thickness.

According to reports by Trihydro, the LNAPL plume from the 2011 spill extends to Carrack Avenue to the northwest, ranging from 10 to 30 feet in width. The vertical extent of the plume is estimated to be from 7 ft. bgs to 16 ft. Current estimates of impacted soil with residual LNAPL indicate the total involved area is 50 ft. wide by 80 ft. long and at least 20 feet deep.

In 2012 the RWQCB-mandated feasibility study was conducted by Trihydro. On the basis of site hydrology and the specific LNAPL characteristics from the spilled contamination, Trihydro has recommended monitored natural attenuation (MNA) as the most appropriate remediation strategy. This evaluation primarily relies upon the reported biodegradation of volatile petroleum hydrocarbon constituents in the soil. However, MNA does not affect the residual mass of LNAPL, and results in the longest possible time frame of any of the available remediation strategies that are potentially appropriate for this site.

Recommendations for Remediation

On the basis of the extent of contamination in and around the jetty, River Watch believes the 2011 release exceeds the estimated 45 gallons, and remains concerned that a passive approach to this contamination will allow further surface water impacts via significant tidal action along the shoreline. Despite the issues with adjacent pipelines or local riprap, River Watch believes that at the very least, a partial excavation of the plume area is feasible and would provide the most immediate response to the problem, and the most immediately effective results. If excavation does not provide a sufficient reduction of existing contaminant levels, LNAPL recovery strategies should be attempted by means of various multiphase fluids recovery and soil vapor extraction operations.

VIOLATIONS

General Discharge Prohibitions

The discharge shall not cause a violation of any water quality standard for receiving waters adopted by the Regional Water Board or the State Water Board by the CWA and regulations adopted thereunder.

(Order No. R2-2010-0084, p.16)

Existing records indicate petroleum based pollutants continue to be discharged from the Terminal to Long Beach Harbor, a water of the United States. Pursuant to CWA § 301(a), 33 U.S.C. § 1311(a), the EPA and the State of California have formally concluded that violations such as those exemplified by Tesoro as identified in this Notice, are prohibited by law.

River Watch alleges that between November 10, 2009 and November 10, 2014, Tesoro has violated the CWA by failing to meet all of the conditions of its NPDES permit and for discharging pollutants into waters of the United States beyond the extent permitted by its NPDES permit. Each and every unpermitted discharge is a separate violation of the CWA.

LNAPL is present in measurable and potentially recoverable quantities at and around the Terminal site. As long as LNAPL is allowed to remain in groundwater in and around this site, there are unknown volumes of hydrocarbon contaminated groundwater that are reaching and will continue to reach the waters of Long Beach Harbor. Groundwater in this area is affected by tidal variations which continuously pull contaminated groundwater into direct contact with tidal surface waters.

Point Source Discharges

The current point source discharges at the Terminal include the industrial facilities and operations which have caused and continue to cause as yet uncalculated levels and concentrations of solid and hazardous wastes (including liquid petroleum, high levels of TPHg, benzene, ethyl-benzene and increases in the concentrations of a variety of chemicals of concern around the Terminal. As noted above, these toxic and hazardous wastes are not being actively or comprehensively remediated, and continue to represent ongoing pollution that affects the health and safety of humans and environmental flora and fauna in and around Long Beach Harbor.

Inadequate Remediation of the Terminal

Current remediation activities at the Terminal are limited to monitoring the levels of contaminants that underlie the site. Levels of petroleum hydrocarbons and petroleum constituents, including benzene, and levels of other toxic chemicals historically used at the Terminal will continue to negatively affect the environmental health of this area unless proactive remediation is conducted without further delay.

Although Tesoro has known about the serious ongoing condition of the Terminal, its past and present efforts to neutralize or eliminate the threat that it presents have been piecemeal and inadequate. As a direct result of Tesoro's inaction with respect to its remediation responsibilities, River Watch's use and enjoyment of this area of the coast and Long Beach Harbor and its environs have been adversely affected.

Long Beach Harbor and adjacent waters have many beneficial uses as defined in the RWQCB's Basin Plan, including but are not limited to: industrial process supply; navigation; water contact recreation; non-contact water recreation; ocean commercial and sport fishing; preservation of areas of special biological significance; wildlife habitat; marine habitat; habitat for threatened and endangered species; fish spawning and migration; and, shellfish harvesting.

The enumerated violations are based upon review of the RWQCB files and GeoTracker files for Tesoro, as well as other files publicly available. In addition to all of the above violations, this Notice covers any and all violations evidenced by Tesoro's records and monitoring data which Tesoro has submitted (or has failed to submit) to the RWQCB and/or other regulatory agencies during the period from September 2011 through the date of this Notice. This Notice also covers any and all violations which may have occurred but for which data may not have been available or submitted or apparent from the face of the reports or data submitted by Tesoro to the RWQCB, GeoTracker, or other regulatory agencies.

The violations set forth herein are alleged to be continuing in nature in that the sources of contamination impacting surface waters have not been eliminated to date.

Pursuant to CWA § 309(d), 33 U.S.C. § 1319(d), each of the violations described herein occurring within the 5 year period prior to the initiation of a citizen enforcement action, subjects the violator to a significant monetary penalty on a per day/per violation basis. In addition to civil penalties payable to the U.S. Treasury, River Watch may seek injunctive relief in the interest of preventing further violations of the CWA pursuant to Sections 505(a) and 505(d), 33 U.S.C. §§ 1365(a) and (d), and such other relief as is permitted by law. CWA § 505(d) permits prevailing parties to recover costs and reasonable attorney fees.

CONCLUSION

River Watch believes this Notice sufficiently states the grounds for filing suit under the statutory and regulatory provisions of the CWA. At the close of the notice period or shortly thereafter, River Watch will have cause to file a suit against Tesoro under the provisions of the CWA for each of the violations alleged herein, and with respect to the existing conditions at the Terminal.

During the 60 day notice period, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If Tesoro wishes to pursue such discussions in the absence of litigation, it is encouraged to initiate such discussions immediately so that the parties might be on track to resolving the issues raised in this Notice before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions have not commenced by the time the 60-day notice period ends.

Very truly yours,



Jack Silver

JS:lhbm

cc: Administrator
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Washington, D.C. 20460

✓ Regional Administrator
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